

THE STATE



OF WYOMING

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April 11, 1996

APR 12 1996

Mr. William F. Caton
Acting Secretary
FCC Room 222
Federal Communications Commission
1919 M St., N.W.
Washington, D.C. 20554

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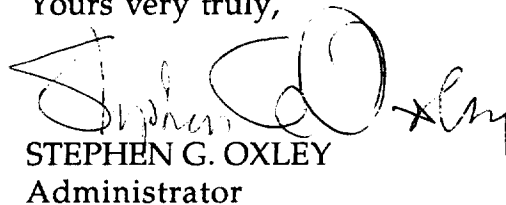
Re: Initial Comments of the Wyoming Public Service Commission in
CC Docket No. 96-45

Dear Mr. Caton:

Enclosed herewith are the original and nine copies of the referenced Comments of the Wyoming Public Service Commission. Please file the same and furnish copies to the Commissioners.

Thank you for your kind assistance with this matter. I would be pleased to answer any questions concerning the enclosed material.

Yours very truly,


STEPHEN G. OXLEY
Administrator

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Before the

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

In the Matter of)
)
Federal-State Joint Board on)
Universal Service)

DOCKET FILE COPY ORIGINAL

CC Docket No. 96-45

APR 12 1996

INITIAL COMMENTS OF THE WYOMING PUBLIC SERVICE COMMISSION

The Wyoming Public Service Commission (WPSC) hereby submits its initial comments pursuant to the Federal Communications Commission's (FCC) Notice of Proposed Rulemaking and Order Establishing a Joint Board issued in the above-captioned matter on March 8, 1996 (NPRM).

1. Introduction, and a comment about service quality issues. Among the issues presented in the federal Telecommunications Act of 1996 (Act), none is more important than universal service. The Act contemplates a rapid transition to a more open and competitive telecommunications marketplace but is very careful, at § 254 (b), to emphasize that advanced telecommunications is of little value if it is not available [i] at affordable rates [ii] in all regions of the country. Urban and rural services should be reasonably comparable and all providers who benefit from a more universally available and more extensive telecommunications system should contribute to universal service. The Act wisely emphasizes the special needs of schools, libraries and health care providers, and the special, beneficial uses to which they can put telecommunications for the public good if more people are connected

to the system. Wisely, the drafters of the Act left it to the Joint Board and the FCC to add other universal service principles to protect the public interest.

Wyoming's comments are made from the perspective of an essentially rural and relatively sparsely populated state which has some of the highest cost to serve exchanges and customers in the nation. It is a state in which demands for more sophisticated telecommunications services are being seen not only in our cities but also in the most sparsely populated rural areas of the state. Wyoming has taken aggressive steps in modernizing its telecommunications system, but the job is not yet finished.

Wyoming is also a state which has done its homework. The WPSC has been engaged in confronting the problems of technological modernization in its telecommunications infrastructure in a systematic manner (discussed below) since 1992. The Commission also worked actively with legislative, governmental, customer and industry groups to successfully develop the Wyoming Telecommunications Act of 1995 -- a sophisticated, comprehensive and procompetitive telecommunications law (a copy is attached for your review) which addresses most of the same telecommunications issues confronted in the federal Act. We are far advanced in a number of telecommunications rulemaking proceedings, including the promulgation of rules [i] setting up a Wyoming universal service fund, and [ii] establishing service quality standards.

Many states have established service quality standards (or guidelines), and the common elements of these standards should be the basis for national service quality policies. The WPSC has established the following service quality rules and recommends them to the Joint Board and the FCC: [a] availability of service, [b]

adequacy of facilities, [c] adequacy of service, [d] basic telephone service standards, [e] customer access line requirements, [f] interoffice trunking requirements, [g] network call completion requirements, and [h] trouble report response. These parameters are similar in function and concept to the National Regulatory Research Institute service quality framework model. Factors such as accuracy, availability, flexibility and speed could be used to establish performance indices on which service providers could realistically be evaluated. Although our standards were developed at the state level, their usefulness in describing telecommunications service quality at the interstate level emphasizes the close connection between interstate and intrastate issues which is well illustrated throughout the Act.

Below, the WPSC will share its ideas about how national and local issues should be addressed. For the sake of an improved national telecommunications system, the Act recognizes that many issues have national and local dimensions; and that federal and state expertise must be contributed if meaningful progress is to be made. "One-size-fits-nobody" national solutions may be unworkable; but so are "nobody-does-it-right-except-us" local solutions.

2. Who should contribute? All providers of local, long distance, cellular, pay telephone, enhanced and other telecommunications services benefit directly from a more universal network. Being able to communicate with more subscribers in more places adds value to the services of all providers. Therefore, the general policy should be that all providers should contribute. It is reasonable to except carriers from responsibility only if their payments into the fund would be less than the administrative costs they impose.

3. How should contributions be assessed? The assessment method should be nondiscriminatory, and this means that a common method, applicable to all providers, should be used. Assessments calculated on the basis of the number of lines or the minutes of use, for example, would unfairly weight the responsibility to contribute of specific types of providers. These and similar physical measurements lack the comparability to make them a reasonable measurement of the responsibility of different types of providers. Because of the obvious shortcomings and needless complications introduced by such methods, the WPSC believes that contributions should be based on a percentage of the provider's gross revenues.

The NPRM suggests assessing based on revenues net of payments to other carriers rather than on gross revenues. The WPSC suggests that it would be more properly comparable and much fairer to base the assessment on gross retail revenues. In such a case, only end-user service revenues would be assessed. Thus, in the case of a wholesale service (e.g., switched access), the assessment would be made against toll revenues and not wholesale revenues. This would require companies which provide a significant portion of their service through resale to support the fund. If netting were allowed, a disproportionate burden would fall on those providing the service at wholesale; and an inaccurate picture of the value of the system to the reseller would be administratively generated.

The Act favors the identification of subsidies, and Universal Service Fund charges should not be an unknown assessment or an undetectable payment. Assessing carriers on the basis of a percentage of revenues may seem facially inconsistent with this concept, but it does not have to trade ease of use for obscurity of the underlying subsidy. This method could explicitly identify subsidies by showing universal service fund charges and payments directly on customer bills.

End users would thereby be informed of the costs of the system. The charges and credits could be clearly identified and equally shared among providers and end users. This will help competition to develop rationally in a more informed marketplace.

4. Who should administer the fund? For the federal universal service fund, it would be wise to have a single administration and distribution mechanism. We suggest that the National Exchange Carrier Association (NECA) be used. Although NECA's mechanisms are not fully attuned to the new USF methods that will develop under the Act, it has an important base of knowledge and experience in analogous matters as well as a history of providing stable, reliable and accurate service to the industry. NECA has experience in working with and in handling nationwide financial questions concerning local exchange carriers which will be key participants in universal service in the future. If NECA is not used, another entity having a national scope should be utilized.

States should *not* make interstate universal service fund distributions to companies unless solid ground rules are established. Even then, individual state policies could easily develop inconsistently; and some, unlike Wyoming's, could remain anticompetitive. This could make a national universal service fund needlessly complicated. It would certainly distort and slow the competitive development of national markets.

5. Recognizing state universal service fund policies. The proper way to recognize state universal service fund policies is to give deference to states with established laws, rules and policies which sincerely reflect policies and initiatives similar to the Act in questions of promoting competition. The drafters of the Act

rejected a “one-size-fits-all” solution on many topics and ask here (§ 254 (f)) that state mechanisms not rely on or burden the federal universal service fund. The test for this should be whether state plans inhibit the development of a more competitive market. Those states which, like Wyoming, have planned under a recent, comprehensive and strongly procompetitive law should be allowed to provide local solutions to local intrastate problems. (See the Wyoming Telecommunications Act of 1995.)

The WPSC is now finishing its work on its universal service fund based on the procompetitive Wyoming Act. Our rules recognize that local rates will be increasing in the near future as subsidies inherent in prior rate setting policies are eliminated and services are priced at or above their costs. Wyoming’s rules also require both payments into and receipts from the universal service fund to be shown explicitly on customer bills.

6. How should universal service payments be distributed? Under Wyoming’s new universal service fund rules, actual subsidy payments are distributed to providers but the credits are shown on customer bills to make sure that universal service fund subsidies actually assist those end users living in high cost and high rate areas.

The WPSC specifically urges that vouchers, “telephone stamps,” or other forms of payment directly to customers *not* be used. Payments to providers are much simpler to administer and to account for. Bills would still show the customers what universal service fund aid they are receiving (or what they are contributing), and there is much less potential for fraud or abuse of the system. The federal universal service fund should employ similar concepts.

7. **What services should be considered “universal”?** Section 254 (c) of the Act rightly finds that the definition of universal service is an “evolving” target. The Act asks that qualifying services be essential for a public purpose, actually being offered by providers and subscribed to by a majority of residential customers. This pragmatic standard relies heavily on public acceptance and use of a service. The FCC has proposed five basic services as qualifying for universal service fund support. They are [a] voice grade access to the public switched network, [b] touch-tone service, [c] single party service, [d] access to emergency services (911) and [e] access to operator services.

The WPSC has studied this issue, among other telecommunications issues, in a series of statewide hearings, and in various rulemakings, infrastructure inventories, investigations and in preparation of information supporting the Wyoming Telecommunications Act of 1995. Remembering that § 254 (c)(1)(A) of the Act would include services which are “essential to education, public health, or public safety; . . .” and that, under § 254(b)(2), “access to advanced telecommunications and information services should be provided in all regions of the nation,” the WPSC believes that there are additional services which clearly meet the statutory test for being “universal.” They are [a] access to enhanced emergency services (E911), [b] white pages directory listings, [c] telecommunications relay services (TRS) for the communications-impaired, [d] access to directory assistance services, [e] equal access (1+), [f] toll restriction capability (including 900/976 blocking), [g] adequate line quality for fax and data transmission (defined in terms of clarity rather than speed of transmission), and [f] end-to-end digital service (or digital connectivity). In addition to being nearer the technological norm than the “cutting edge” of telecommunications service offerings, these additional services

enhance the economic viability of essentially rural states such as Wyoming which, as is the case with most areas of the nation, has become increasingly reliant on the deployment of modern telecommunications technology for economic growth. Under the Act, all areas of the nation should have access to "advanced" services. Some of the suggested additions to the list may be considered "advanced," but only barely so.

8. Would a benchmark cost model be useful? We believe that the application of a benchmark cost model could be useful in producing uniform and equitable estimates of the cost of service for geographically disparate groups of customers. Such a proxy model would also facilitate the development of cost estimates in rural, high cost, and insular areas. The WPSC has not tested the models described in the NPRM but has reviewed the model proposed in a Joint Submission made pursuant to the NPRM by U S WEST, NYNEX, MCI and Sprint. The common denominator of all of the benchmark cost models which we have reviewed is the advocacy and use of census block groups as the appropriate study area. We believe that this is a prudent disaggregation of costs which will accurately measure the difference in the cost of providing telecommunications services without imposing unnecessary complexity on the administration of the fund. We therefore believe that it would satisfy the FCC's objectives by being "simple to administer, technology neutral, and designed to identify the minimum subsidy required to achieve the statutory goal of affordable and reasonably comparable rates throughout the country." The FCC's criteria adequately, in our view, describe a properly functioning benchmark model. Other models may also meet these objectives, but any proposed model should be tested prior to adoption to insure that it does not produce a result that is biased against less densely populated, essentially rural, high cost areas.

A proxy cost model which insures technological neutrality would be the best way to insure that advanced telecommunications services are generally available in rural, high cost and insular areas. In areas where retail rates cannot be expected to cover the investment required to provide advanced telecommunications services, they will *only* be generally deployed (as the policy of the Act requires) if universal service fund mechanisms can provide support for the needed level of network functionality. In such a situation, competitive service providers will still have the ability to resell these facilities, in combination with other facilities, functions and services, in ways which meet the unique needs of individual customers. The competitive margin here will be seen in the depth, quality and price of the service offering and not in the underlying technology used to support the service.

In applying a benchmark cost model, the minimum level of network functionality required to support "essential telecommunications services," as that term is defined, could be incorporated into the estimated cost of providing that level of service. Support payments so calculated would then be available to all eligible local exchange service providers. By estimating costs in this way, the FCC can be assured that the universal service fund mechanism will be not only technologically neutral but also competitively neutral. The adopted costing model (and the final form of the universal service fund mechanism in general) should be capable of meeting both of these major policy considerations of the Act.

9. Where would a national perspective be most useful in refining universal service fund concepts? In many areas, the drafters of the Act wisely deferred to the states to provide local expertise or to solve problems which have an essentially local character -- subjects on which it would be either inadvisable or

impossible to write a single national solution to a problem. The same Act, however, seeks to insure that the United States does not become divided into islands of informational “haves” and “have nots” (e.g., availability of advanced services in “all regions of the Nation,” under § 254(b)(2)). In these subject areas it is important to keep a national focus to best implement the Act and make sure that a truly “universal” telecommunications system can be achieved. Examples are described below.

At § 254(c)(1)(B), the Act seeks to define components of universal service, in part, as those “subscribed to by a substantial majority of residential customers.” This substantial majority should be defined nationally rather than regionally or locally so that the universal service fund concept does not become a vehicle for the balkanization of the United States telecommunications system.

At § 254(h)(1)(B)(2)(A), the Act requires the FCC to establish competitively neutral rules to enhance access by schools to advanced telecommunications and informational services “to the extent technically feasible and economically reasonable.” The measurement here should also be national in scope. To measure on an exchange by exchange basis could provide false results. If the system is to be fairly and truly upgraded, and sustained at a level at which all schools have access to competent telecommunications services (and students have comparable educational opportunities), a less than national analysis would be unproductive. At § 254(h)(1)(B)(2)(B), the FCC is asked to define the circumstances under which “a telecommunications carrier may be required to connect its network to such public institutional telecommunications users.” Again, the technical analysis should be relatively inclusive. If we do not wish to create a land of “have nots,” the rule of thumb should be that, if a service is available in metropolitan markets, it should be

available to all of the institutions in the area. Information technology is developing so rapidly that “economies of scale” no longer dictate that there should be a sharp distinction between urban and rural schools, libraries and health care systems.

10. When would a state perspective be helpful in administering the Universal Service Fund? Although the nation’s telecommunications system should develop with relative national uniformity, there are a number of instances in which the rules on the fund should accommodate the need for local expertise and input into the process.

For example, in § 254(h)(1)(B)(4), the Act sets up some basic parameters for eligibility of public institutional users for participation in the special provisions of the universal service fund applicable to them. Given the large number of potential beneficiaries and their changing circumstances, the universal service fund rules should flesh out the statutory criteria as needed but then rely upon the states to create the list of eligible users. Considerable time and money could be saved, lines of local communication would be kept short, and any institution which believes it has been unfairly excluded could appeal to the FCC.

§ 254(h)(1)(B) says that “all telecommunications carriers serving a geographic area” shall have the obligation to provide universal service-level connections to educational institutions. This is another situation in which the rules and the FCC should rely on local expertise. State commissions are in the best position to determine geographic areas and to understand fully the nature of the entities serving there. They have the necessary demographic and operational data needed to make efficient decisions of high quality. Generally, state commissions also, as in Wyoming, already have excellent working relationships with the various other

educational agencies and entities which would make the process even more efficient.

An obvious example is contained in § 254(h)(1)(A). There, telecommunications service providers are required to provide telecommunications services to certain health care providers at rates “reasonably comparable to rates charged for similar services in urban areas of that State.” State commissions should be consulted on this issue as part of the routine operation of the universal service fund. In Wyoming, this concept should mean that, regarding interactive services, the medical community should probably receive rates similar to those found in state telecommunications service contracts with community colleges. Again, given the relative state of the development of these services in Wyoming, we believe that local expertise should be relied upon to develop answers appropriate to the situation.

In § 254(f), the Act allows states to adopt regulations providing for additional definitions and standards to preserve and advance universal service within the state. Given the Act’s clear intention to assist educational institutions with the finest modern telecommunications services, the WPSC assumes that this would allow Wyoming to require advanced telecommunications infrastructure for all 49 of its school districts. The only evil that the FCC should act to prevent in this case is the situation in which an educational institution or a state commission ordered the installation of an “orphan” or clearly incompatible technology which would have the effect of creating informational backwaters and hampering the interconnectivity of the system.

11. Is a state perspective on advanced telecommunications and information services necessary? Although the goal of the Act is a generally homogenous and technically advanced telecommunications system in the United States, the states have a useful role to play in helping to ease and speed the transition. Like universal service, the definition of advanced services, especially those which pertain to educational institutions, libraries and health care providers, is a technologically moving target and may remain so for some time. Not all states are at the same level of technological development and all face different demographic, economic and infrastructure challenges.

For example, it is clear that Wyoming's school districts and libraries need access to high speed data transmission and digital connectivity, including improved access to wide area networks. This implies that a transmission rate of at least 56 kbps should be considered a minimum in Wyoming. Other similar connectivity is needed by health care providers. In both information and health care applications, great transmission accuracy would be required.

Given the immediate need for increased capabilities in these areas, it would be wise for the universal service fund mechanism to enlist the aid of the states in developing answers over time to the question of what constitutes advanced telecommunications and information services at any given point in the system's development. Even if an overall target level of service were to be set nationally, if local capabilities could not now match these standards, there should nevertheless be a way for definitions and "targets" to be localized to make the transition to a more completely capable network easier. Again, local expertise is vital to the overall success of the improvements envisioned by the Act. Just as the system's development is ongoing, so should be the states' involvement in these areas.

Local expertise and input should be employed specifically with respect to § 254(b)(6) (“advanced telecommunications services”), § 254(c)(1)(A) (“services essential to education, public health and public safety”), and § 254(c)(3) (“additional services for such support mechanisms for schools, libraries, and health care providers”). States with different physical and demographic characteristics can provide very different answers to the questions raised by these requirements of the Act. Thus, given the ongoing nature of the federal and state universal service fund mechanisms, local input is valuable in two ways. First, it allows the state and federal mechanisms to work together in harmony toward a common goal. Second, it keeps the state mechanisms from interfering with the federal. If there are to be nationwide goals for which all should strive, that still does not mean that the process should not be capable of rationally addressing the various -- and very different -- requirements and challenges faced by the states. (For example, public safety questions are very different in different parts of the country.)

12. How should “resale” by public institutions be viewed? § 254(h)(1)(B)(3) prohibits public institutional users from reselling their telecommunications services and network capacity. This should be clearly defined to exclude uses of the services or capacity in the normal course of the institution’s business which may include a fee. We must therefore make sure that it does not become a violation of the upcoming universal service fund rules if an educational institution charges tuition or lab fees for a class provided by distance learning technology, that a library may make legitimate charges to defray some of its operating costs when it offers advanced informational services, and that a health care provider may charge fees for services supported by the new telecommunications technologies. The evil is only in

abusing a public position by buying at a discount and creating an unjustified subsidy by reselling services to the public in a supposedly "competitive" manner.

13. How should the concept of regionality be applied? When § 254(b)(2) speaks to the availability of advanced services "in all regions of the Nation," the Joint Board and the FCC should keep in mind that the concept of availability in a "region" should not mean simply availability in one large metropolitan market within a region. Availability should mean availability to all users -- or substantially all of them. By saying this, the WPSC is not advocating the immediate availability of 300 kbps ISDN to every remote subscriber; but we do not believe that token availability of a technologically innovative service only in large metropolitan areas is either proper or falls within the spirit of the Act.

Likewise, when § 254(b)(3) discusses access in rural and high cost areas to services "comparable to those services provided in urban areas" at rates "reasonably comparable to rates charges for similar services in urban areas," the measurement should not be artificially localized to impede the development of the system. For example, the availability of services in a small Wyoming community would not be properly measured by its availability in Wyoming's largest "urban areas" (two cities, each of which has a population of about 50,000). The proper "urban" technological measurement would be a larger telecommunications market such as the Denver, Colorado, conurbation. The Act recognizes that state boundaries are not always relevant to the behavior of the system; and they should not, in this case, be allowed to artificially slow down progress.

14. How should universal service fund monies be used to improve infrastructure? With some exceptions, intrastate and interstate telecommunications

systems are very closely functionally and physically linked; and this is reflected in the Act. It is our view that, for purposes of the fund, the distinction should not be made so constrictive as to defeat the purposes of the Act. For example, § 254(h)(1)(A) requires special accommodations for certain health care providers and allows service providers to treat the rate differential as part of its “obligation to participate in the mechanisms to preserve and advance universal service.” Clearly, this (“mechanisms”) shows the intent of the Act to allow compensation to flow to service providers from both federal and state universal service funds. Similarly, § 254(h)(1)(B) allows both states and the federal government to address the discounts to be received by educational institutions and libraries (and thus the degree to which providers should be deemed to have contributed toward their universal service fund obligations).

Under § 254(e), carriers receiving federal support must use the monies “only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.” Read together with the broadly progressive but explicit policy of the Act, this means that funds for upgrading telecommunications infrastructure should be available from both the state and federal funds. Arbitrary jurisdictional distinctions between interstate and intrastate facilities will condemn less populous regions to second-class status -- a result that the Act seeks to avoid.

15. How should existing support mechanisms guide determinations regarding the development of new ones? Any changes to existing federal support mechanisms should be consistent with the Act, and special attention should be paid to the changes the Act requires for schools, libraries and health care providers as well as to its emphasis on new nationwide service principles and policies. Existing federal support enables states to maintain universal network access while

maintaining more reasonable local *and* toll rates, particularly in high cost areas and areas served by smaller rural telephone companies. Changes should be tested and analyzed carefully to make sure that they do not cause "catastrophic" problems in the nation's telecommunications system. New support mechanisms should therefore address and examine existing cost recovery concepts (such as existing universal service fund and Dial Equipment Minutes (DEM) mechanisms) for continuing usefulness.

A logical starting point for this examination is the changes that were proposed in CC Docket No. 80-286 which, prior to the policy changes introduced by the Act, strongly disfavored universal service subsidies. Under it, Wyoming would stand to lose millions of dollars annually through the eradication of DEM weighting. This unfortunate result would hit hard at primarily rural areas where competition has been (and will thereafter be moreso) slow to develop. Costs thereby shifted to the states would both drive rates up and inhibit network development and the deployment of new technology.

Specifically, if existing universal service and DEM funds were "merged" as formerly proposed in Docket No. 80-286, Wyoming's current level of interstate support (\$7,217,000) would be reduced by \$2,291,000 to a merged level of \$4,926,000. This drastic negative effect should be avoided and could be easily avoided while satisfying the policy mandates of the Act. The WPSC's suggestion in this regard is twofold: First, the DEM weighting assistance program should be continued during the period of transition (while new support mechanisms are being put in place under the Act) because DEM is an effective and appropriate high cost support plan. (The USF cap, scheduled to expire on July 1, 1996, should be preserved during the transition.) Second, DEM should be considered as an appropriate permanent

companion to a new federal universal service fund under the Act. It can, for example, easily be made explicit by the universal service fund administrator. It can, if necessary, also be made "transportable" to recognize the contributions to local switching costs made by incumbent local exchange service providers as well as by those who resell local service or invest in facilities to obtain this competitive functionality.

This proposal would provide a useful vehicle for addressing the unbundled loop and switching functions needed under the Act if real competition is to develop. It would also provide a mechanism for the recovery of new switching costs anticipated in new federal requirements in a manner consistent with their causation. (See also, NECA's comments of October 10, 1995, in CC Docket No. 80-286 for further illustration of the negative effects of "merger.") Because the NPRM is not specific on the subject, and given the relatively dramatic results described above, the FCC may wish to examine these concepts further specifically in a rulemaking context and, in the process, obtain reliable impact information from the various states.

16. Further refinement of the federal Universal Service Fund concept.

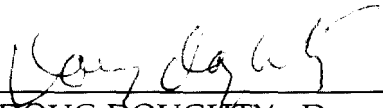
The Act, in setting up a Joint Board and in requiring federal and state input into the solution of the telecommunications challenges we face, clearly calls for sustained cooperation. The WPSC believes that continuing federal/state cooperation and information sharing should be built into the federal universal service fund mechanism. States have an important role to play in making the federal fund efficient, fair and easily administered. We believe the dialogue should be ongoing, and that the fund mechanism should recognize this. It should clearly survive the promulgation of universal service fund rules.

Respectfully submitted this 11th day of April, 1996.

PUBLIC SERVICE COMMISSION



STEVE ELLENBECKER, Chairman



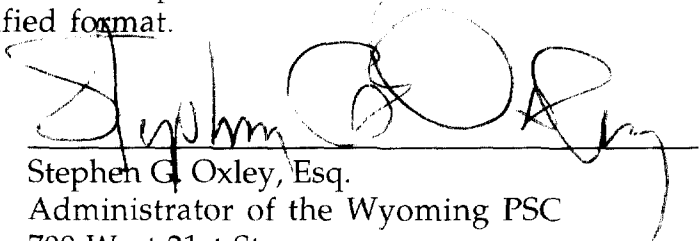
DOUG DOUGHTY, Deputy Chairman



KRISTIN H. LEE, Commissioner

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, on April 11, 1996, I served true and complete copies of the within and foregoing Initial Comments of the Wyoming Public Service Commission in the above-captioned matter by [a] transmitting the original and nine copies of the Initial Comments to the Acting Secretary of the Federal Communications Commission by Federal Express, [b] transmitting an additional copy thereof to the International Transcription Service by Federal Express, [c] serving copies thereof on each state member of the Federal-State Joint Board and on each person otherwise named on the service list attached to the Notice of Proposed Rulemaking in the above-captioned matter by depositing the same in the United States Mail, first class postage prepaid, and [d] by transmitting by Federal Express the Initial comments on computer diskette to the Commission's Common Carrier Bureau in the specified format.



Stephen G. Oxley, Esq.
Administrator of the Wyoming PSC
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Wyoming Statutes Annotated, 1977 Republished Edition (as amended)

TITLE 37, PUBLIC UTILITIES

CHAPTER 15: TELECOMMUNICATIONS

ARTICLE 1

GENERAL PROVISIONS

37-15-101. Short title. This chapter shall be known as the "Wyoming Telecommunications Act of 1995."

37-15-102. Legislative intent. It is the intent of this act to ensure essential telecommunications services are universally available to the citizens of this state while encouraging the development of new infrastructure, facilities, products and services. The provision of telecommunications services has been developed and regulated under a monopolistic environment. This act recognizes the increasingly competitive nature of the telecommunications industry and the benefits of competition. It is the intent of this act to provide a transition from rate of return regulation of a monopolistic telecommunications industry to competitive markets and to maintain affordable essential telecommunications services through the transition period, and the provisions of this act shall be construed to achieve those goals.

37-15-103. Definitions.

(a) As used in this chapter:

(i) "Affiliated telecommunications companies" means telecommunications companies:

(A) In which five percent (5%) or more of the voting stock is controlled or owned, directly or indirectly, by a common principal; or

(B) Whose management and policies are found by the commission, after notice and opportunity for hearing, to be controlled by a common principal.

(ii) "Commission" means the public service commission of Wyoming;

(iii) "Competitive telecommunications services" means those services found by the legislature or the commission to be competitive in accordance with W.S. 37-14-202;

(iv) "Essential telecommunications service" means a customer's access to service that is necessary for the origination or termination, or both, of two-way, switched telecommunications for both residential and business service within a local exchange area. Essential telecommunications services are limited to:

(A) Access to interexchange services provided by interexchange telecommunications companies;

(B) Single line flat-rate or single line measured residence or business service;

(C) Transmission service and facilities necessary for the connection between the end user's or customer's premises or location and the local network switching facility including the necessary signaling service used by customers to access essential telecommunications services;

(D) Services necessary to connect 911 emergency services to the local network;

(E) Switched access, which for the purposes of this chapter shall mean the switching and transport necessary to connect an interexchange telecommunications company with the local exchange central office for the purpose of originating or terminating, or both, the interexchange telecommunications company's switched telecommunications service.

(v) "Interexchange telecommunications company" means a person providing telecommunications service to connect end users located in different local exchange areas, but excluding companies which also provide noncompetitive local exchange services;

(vi) "Local access transport area (LATA)" means geographic regions created as part of the divestiture of American Telephone and Telegraph Company which defined the areas where regional Bell operating companies were permitted to provide telecommunication services;

(vii) "Local exchange area" means a geographic territorial unit established by the commission for providing telecommunications services;

(viii) "Local exchange service" means the provision of essential telecommunications service within a local exchange area;

(ix) "Noncompetitive telecommunications services" means those services which have not been found by the legislature or the commission to be competitive in accordance with W.S. 37-14-202;

(x) "Price" means any rate or charge set and published in accordance with this chapter and collected by the telecommunications company for any telecommunications service offered by it to the public or other telecommunications companies;

(xi) "Telecommunications company" means a person engaged in the furnishing of telecommunications service within this state;

(xii) "Telecommunications service" means the offering or transmitting for hire of telecommunications by means of telecommunications facilities using wire, radio, lightwave or other means;

(xiii) "Total service long-run incremental cost" means the total forward-looking cost, using least cost technology, for a telecommunications service or basic network function that the telecommunications provider would incur if it were to initially offer such telecommunications service or basic network function;

(xiv) "Universal service" means the general availability of essential telecommunications service at an affordable and reasonable price;

(xv) "Video dial tone service" means the transmission of entertainment video programming and other forms of two-way, interactive video programming using a common video dial tone platform.

(b) In determining the number of access lines of a telecommunications company for purposes of this chapter, the number of access lines of all affiliated telecommunications companies shall be aggregated in this state.

37-15-104. Services not regulated by this title.

(a) Except for contributions to the universal service fund required pursuant to W.S. 37-14-501, telecommunications service does not include, and the provisions of this title do not apply to:

(i) One-way transmission of radio or television signals for broadcast purposes, including the one-way transmission of video programming by a cable television or other system as well as subscriber interaction which is required for the selection of video programming;

(ii) Except as provided in this paragraph, home and business and coinless, or coin operated public or semipublic telephone terminal equipment, and the use, location and charges for the use of such equipment. The commission may regulate the location of and charges for coinless or coin operated public or semipublic telephone terminal equipment in areas of the state which the commission finds are not subject to competition for such equipment;

- (iii) Any billing and collection services;
- (iv) Any inside wire and premise cable installation and maintenance;
- (v) Directory services, except as provided in W.S. 37-12-130;
- (vi) Except for the quality of cellular service to the extent not preempted by federal law, telecommunications services using radio spectrum or cellular technology;
- (vii) Video dial tone and multimedia services;
- (viii) Private telecommunications networks, which for the purposes of this act shall mean a system for the provision of telecommunications service by a person or entity for the sole and exclusive use of the person or entity and not for resale directly or indirectly;
- (ix) Nonvoice data services not operated by a company providing local exchange service;
- (x) Networks established by a person other than the local exchange company providing essential telecommunications services within the local exchange area to provide access to interexchange carrier services;
- (xi) Except as provided in this paragraph, direct inward dial services and other services needed by answering services and paging services. To the extent not preempted by federal law or regulation the commission shall regulate direct inward dial services and other services needed by answering services and paging services as noncompetitive services in any local exchange area until there are at least two (2) telecommunications companies effectively offering direct inward dial and other needed services to the answering services and paging services serving that local exchange area;
- (xii) Remote meter reading; and
- (xiii) Any other telecommunications service that is not regulated by this title.

ARTICLE 2

REGULATION OF COMPETITIVE AND NONCOMPETITIVE MARKETS

37-15-201. Regulation of local exchange services; certificates of public convenience and necessity; concurrent certificates.